
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN
DIVISION

DEAN RAMIREZ,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

MEMORANDUM DECISION AND ORDER
DENYING PRO SE MOTION

Case No. 1:03-cr-62 TC

District Judge Tena Campbell

Magistrate Judge Brooke Wells

Dean Ramirez seeks leave for an extension of time to file an appeal.¹ Specifically, Mr. Ramirez motion seeks “Leave Of Court For Reconsideration To Respectfully File An Untimely Notice Of Appeal.”² The appeal Mr. Ramirez seeks to make is in opposition “to the district court’s Amended Judgment and Order from August 10th 2015”³ Mr. Ramirez filed his motion on May 6, 2016, nearly nine months after the amended judgment was entered.

The Appellate Rules of Procedure provide “An appeal permitted by law as of right from a district court to a court of appeals may be taken only by filing a notice of appeal with the district clerk within the time allowed by Rule 4.”⁴ Appellate Rule 4(b) provides the timing for filing a notice of appeal in a criminal case. It states:

(A) In a criminal case, a defendant’s notice of appeal must be filed in the district court within 14 days after the later of:

- (i) the entry of either the judgment or the order being appealed; or
- (ii) the filing of the government’s notice of appeal.

(B) When the government is entitled to appeal, its notice of appeal must be filed in the district court within 30 days after the later of:

¹ Docket no. 850.

² Motion p. 1.

³ *Id.*

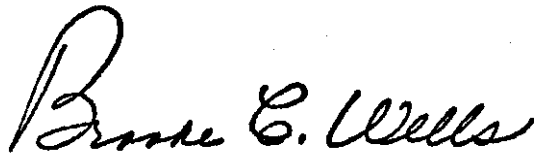
⁴ Fed. R. App. P. 3.

- (i) the entry of the judgment or order being appealed; or
- (ii) the filing of a notice of appeal by any defendant.⁵

Here Mr. Ramirez is clearly beyond the deadline to file a notice of appeal. Mr. Ramirez however seeks an extension or reconsideration to file an untimely notice of appeal. There is no “excusable neglect or good cause” that warrants the granting of an extension of time.⁶ Moreover when an extension is warranted a court may “extend the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b)”⁷ i.e. a deadline that fell long before Mr. Ramirez filed his motion. Finally, even if the court construes Mr. Ramirez’s motion as a motion to reconsider, he fails to convince the court that it should revisit its prior decision.

The pro se motion is therefore denied.⁸

DATED this 17 March 2017.

A handwritten signature in black ink, reading "Brooke C. Wells". The signature is fluid and cursive, with the first name "Brooke" being more prominent and the last name "Wells" following in a similar style.

Brooke C. Wells
United States Magistrate Judge

⁵ Fed. R. App. P. 4(b)(1).

⁶ Fed. R. App. P. 4(b)(4).

⁷ *Id.*

⁸ Docket no. 850.